

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

VANN L. BAILEY,

No. 4:22-CV-01891

Plaintiff,

(Chief Judge Brann)

v.

(Chief Magistrate Judge Mehalchick)

K. KAUFFMAN, *et al.*,

Defendants.

ORDER

AUGUST 11, 2023

Vann L. Bailey and several co-plaintiffs previously filed a civil rights complaint—which was amended three times—alleging that their rights were violated by Defendants as related to the conditions of confinement at Pennsylvania State Correctional Institution Huntingdon.¹ Bailey’s co-plaintiffs were severed from this matter, and Bailey was directed to file a fourth amended complaint.² Bailey did not file a fourth amended complaint but, instead, filed a motion for a preliminary injunction.³

In June 2023, Chief Magistrate Judge Karoline Mehalchick issued a Report and Recommendation recommending that this Court deny the motion for a preliminary injunction and direct Bailey to file a fourth amended complaint.⁴ After

¹ Docs. 1, 35, 72, 101, 102, 104, 108.

² Doc. 223.

³ Doc. 225.

⁴ Doc. 230.

receiving an extension of time,⁵ Bailey filed timely “objections” to the Report and Recommendation, although the purported objections are entirely unresponsive to the Report and Recommendation.⁶

“If a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’”⁷ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations.⁸ After reviewing the record, the Court finds no error—clear or otherwise—in Chief Magistrate Judge Mehalchick’s conclusion that a preliminary injunction is unwarranted, and that Bailey should be directed to file a fourth amended complaint. Accordingly, **IT IS HEREBY ORDERED** that:

1. Chief Magistrate Judge Karoline Mehalchick’s Report and Recommendation (Doc. 230) is **ADOPTED**;
2. Bailey’s motion for a preliminary injunction (Doc. 225) is **DENIED**;
3. Bailey **SHALL FILE** an all-inclusive fourth amended complaint on or before Friday, August 25, 2023. The failure to file a timely amended

⁵ Doc. 232.

⁶ See Doc. 233.

⁷ *Equal Emp’t Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

⁸ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

complaint will result in the dismissal with prejudice of Bailey's case;

and

4. This matter is **REMANDED** to Chief Magistrate Judge Mehalchick for further proceedings.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge